GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:804
ANSWERED ON:21.02.2003
AMENDMENT IN PATENT ACT
M.H. AMBAREESH

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether the Union Government propose to amend the Patent Act to incorporate necessary changes as per the Government`s commitment to the Trade Related Aspects of intellectual Property Rights (TRIPs);

(b) if so, the salient features of the amended Act;

(c) whether the Government have received any proposal from the People`s Commission on Patent Laws for a shorter product patent term particularly for the pharmaceutical sector;

(d) if so, the details thereof; and

(e) the reaction of the Union Government thereto?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI CH. VIDYASAGAR RAO)

(a) : The Patents Act, 1970 has already been amended by the Patents (Amendment) Act, 2002 in order to fulfill India`s current obligations under the Agreement on Trade Related Aspect of Intellectual Property Rights(TRIPs).

(b): The salient features of the amended Act are:

- definition of the term `invention` in accordance with international practices and the TRIPs Agreement;
- exclusion of inventions from patentability as permitted by TRIPs Agreement and inclusion of subject matters like discovery of any living or non-living substances occurring in nature in the list of inventions not patentable;
- provisions for protection of bio-diversities and traditional knowledge;
- alignment of the rights of patentees in accordance with the TRIPS Agreement;
- provisions for parallel import to ensure availability of products at competitive prices;
- provision for reversal of burden of proof in accordance with the TRIPs Agreement;
- provision of uniform term of patent protection of twenty years for all categories of inventions;
- comprehensive provisions for protection of public interest and public health;
- simplified and rationalised patent granting procedures.

(c) to (e): The report of the People`s Commission on Patent Laws for India suggests a shorter term of product patent protection for pharmaceutical products. The Patents Act, 1970 does not provide for product patent protection for pharmaceuticals. Further, the suggestion is not compatible with India`s obligations under the TRIPs Agreement.